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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,321	07/23/2001	Kenichi Myokan	0941.65715	3590

7590

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EXAMINER

MILLER, BRIAN E

ART UNIT

PAPER NUMBER

2652

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/911,321

Applicant(s)

MYOKAN ET AL.

Examiner

Brian E. Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-7 and 11-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 6, 7, 11-13, 15, 16 and 20-25 is/are allowed.
- 6) ☒ Claim(s) 5, 14 and 17-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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Claims 1-3, 5-7, 11-25 are pending.

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/4/04 has been entered.

***Claim Objections***

2. Claims 1, 11, 20, 21, 22, 24 are objected to because of the following informalities: In the second to last line of claim, the word "distance" should be changed to "spacing" for clarity, since "distance" would not necessarily encompass a void between the elements. The specification discloses this distance to be a space, therefore, clarity within the claim language is requested. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 5, 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The language in claims 5 & 14, "wherein the shroud and said spoiler are formed

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integrally with each other” is misdescriptive, because if this was the case, the “distance” as claimed in claim 1 & 11, respectively, would necessarily not exist, rendering the claim indefinite.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Takeshi et al (JP 7-320478). Takeshi et al discloses a disk unit (as shown in at least FIG. 1) including: a disk 1; an actuator (including elements 3, 4, 5) for supporting a head 11 that reads information from or writes information to the disk; and an airflow-regulating member 7 “for receiving and regulating airflow generated by disk rotation so as to prevent the airflow from flowing toward the actuator” (see paragraph [0019-0020]). As depicted in FIG. 1, with the airflow-regulating member 7, airflow (indicated by arrow “B” is prevented from directly contacting the pivot axis 4 and voice coil 5 of the actuator and thus suppressing needless air flow and reducing “windage loss” (see CONSTITUTION). Further, the airflow-regulating member is provided in proximity to, i.e., near, a boundary between a first area where an inner wall of a housing of the disk runs side by side with a peripheral edge of the disk and a second area where a distance between the inner wall and the peripheral edge becomes longer than in the first area (an area adjacent element numerals 12, 16 in FIG. 1); (as per claim 18) wherein said airflow-regulating member is provided in a counter-rotational direction of the disk (see direction “A” in the FIGs.) from the

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actuator; (as per claim 19) wherein said airflow-regulating member is considered to be a "spoiler".

*Allowable Subject Matter*

7. Claims 1-3, 6-7, 11-13, 15-16, 20-25 are allowable over the prior art of record. The reasons for allowance were provided previously.

8. Claims 5, 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

*Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure including" US Patents to Voights (6,208,484) and Shimizu et al (6,369,978) which are cited to show "airflow regulating members".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E. Miller whose telephone number is (703) 308-2850. The examiner can normally be reached on M-TH 7:15am-4:45pm (and every other friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on (703) 305-9687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "B. Miller", is positioned above the printed name.

**Brian E. Miller**  
**Primary Examiner**  
**Art Unit 2652**

BEM  
October 28, 2004